



Agenda Date: 10/22/03

Agenda Item: IV C

STATE OF NEW JERSEY

Board of Public Utilities

Two Gateway Center

Newark, NJ 07102

www.bpu.state.nj.us

TELECOMMUNICATIONS

IN THE MATTER OF PETITION BY BELL)	ORDER ACCEPTING
ATLANTIC-NEW JERSEY, INC. N/K/A)	REVISION OF TARIFF
VERIZON NEW JERSEY FOR REVISION)	
OF TARIFF B.P.U.N.J. NO. 2 PROVIDING)	
FOR THE INTRODUCTION OF DO NOT)	
DISTURB INCOMING MANAGEMENT)	
SERVICES)	DOCKET NO. TT97120885

(SERVICE LIST ATTACHED)

BY THE BOARD:

BACKGROUND

On December 10, 1997, Verizon New Jersey (VNJ/Petitioner) formerly known as Bell Atlantic New Jersey (BA-NJ) filed a petition with the Board of Public Utilities (BPU) requesting to provide a new residential service to its customers called Do Not Disturb (DND). In its petition VNJ is also proposing language to clarify its tariff on section A.5.2.2- local message to explain the charges for DND.

DND provides customers with the option of blocking or redirecting, inbound calls for periods of time established by the subscriber. If the subscriber of DND has voice mail service, the announcement can be appended to allow a message to be left in a voice mailbox. Blocking of unwanted calls can be programmed for a specific time up to 24 hours or for an unspecified period of time. The service can be programmed to be turned on and off automatically on selected days of the week. Calls that are blocked or redirected will not ring at the subscriber's premise or provide any Caller ID information. All calls terminated at the premise of a DND subscriber (except in the case where a busy signal is transmitted) are considered to be completed and callers will incur the applicable local or toll rate charges even if they do not have the opportunity to deliver a message. Selected callers chosen by subscribers of DND can bypass blocking in one of two ways: a) through a priority caller list (with up to 15 numbers), which allows only the number of specific callers to ring through, or, b) through a four digit override code, which allows those callers who know the code to bypass the restriction. Callers on the priority list or with the override code can dial the code after or during the announcement.

Subscribers can customize their DND service by choosing one of three indicated announcements: 1) We're sorry, the party you are calling is not available at this time.
2) We're sorry, the party you are calling is not accepting calls at this moment.
3) We're sorry; the party you are calling does not wish to be disturbed.

POSITION OF THE PARTIES

The Division of Ratepayer Advocate (RPA) addressed the issue of Verizon charging for non-completed calls in a letter to the Board, dated May 5, 1998. The RPA indicated that there is no legal or policy justification that can support a caller being charged for a call, which is not actually completed. The RPA further stated that if a DND subscriber wants this option, any cost associated with such service, including the cost for announcements should be reflected in the monthly charge for this service and paid for by the DND subscriber. The RPA further stated that the unfairness of the proposal is even more apparent because the subscriber can receive calls if it gives out a code to certain callers to bypass the DND service. Therefore, if the DND subscriber chooses to use an announcement, VNJ should not be permitted to charge for a completed call when only the announcement is received by a caller. Additionally, RPA claimed that Verizon could just as easily have structured and programmed DND service to give a busy signal which could be overridden with the DND code. Under that approach only completed calls would be charged and no discrimination of unfairness would exist.

Verizon's response to RPA was filed on June 12, 1998. In its response Verizon indicated that billing for calls reaching a DND announcement is consistent with the practice of billing for calls that reach voice messaging service and answering machines. In addition, the provision of DND is consistent with the FCC's rule which establishes billing for answer supervision (DND cannot be provided without answer supervision). The FCC's rule requires treating calls terminating at an announcement on a Private Branch Exchange (PBX) as completed calls, unless the announcement is one of three types that indicate that the called station is not in service (i.e. "number invalid", number not in service" or "number not assigned"). Since DND calls are routed to an announcement and the subscriber selected message confirms that the number is valid, assigned, and in service, but that the called party does not wish to be disturbed, charges incur.

In response to Verizon's comments of May 5, 1998, the RPA submitted additional comments to the Board by letter, dated June 18, 1998. The RPA explained that Verizon cannot justify its proposed billing practice by comparing it to voice mail and answering machines or to be in conformance with the FCC regulation. Calls to voice mail and answering machines are terminated at the called party location, whereas DND calls that generate an announcement at the central office are not terminated at the called party location and do not get routed to the called party location. Therefore, it is inappropriate to bill DND announcements as completed calls. Reliance on the FCC's regulation is inaccurate since that regulation is no longer effective and has been superseded by a revised regulation. Both previous and revised regulations were intended to apply to data equipment, such as PBX or other similar systems connected to the public switched network, which only apply to interstate calls. Finally, since answer supervision is needed to provide DND, the charge should be minimal and the DND subscriber should absorb the cost. Answer supervision should be able to send a signal when the DND announcement is given, indicating the original location that the call has not been

completed. If this is not possible or modifications are required, DND subscriber's monthly rates should be increased to cover such cost.

Verizon's response to the RPA's additional comments was forwarded to the Board by letter, dated July 6, 1998. In its comments Verizon indicates that whether a subscriber announcement is made from a central office, a voice mail, or an answering machine, called customers are communicating a message to callers, and callers should pay for the call. In addition, Verizon indicates that the RPA did not dispute that the current FCC rule requires treating calls terminating at an announcement on a PBX as completed. Finally, DND must be provided with answer supervision and cannot be reconfigured to be provided without it.

The RPA forwarded to the Board a new set of comments, dated February 19, 2002, maintaining their position in this matter. The RPA is aware that a two-way talk path with answer supervision is necessary to provide DND; however, the RPA advised the Board that Verizon should provide callers with an oral announcement at the beginning of the call informing them that a charge will be incurred for calls completed (even if they are not answered by the called party) or when the called party's voice mail is activated, unless the caller hangs up within a specified period of time.

On March 12, 2002, Verizon responded to the RPA's letter to the Board of February 19, 2002. In its response, Verizon stated that answer supervision is the signaling that a called station or other customer provided equipment sends to the telephone company equipment indicating that a call has been answered and billing should commence. Verizon further stated that DND cannot be provided without answer supervision and a busy signal does not generate an answer supervision signal. Additionally, Verizon claims that there are numerous products and services offered by other companies similar to DND that are available in the marketplace and result in callers being billed even when their calls do not ring at the called location or are not answered by the called party. Verizon's response did not satisfy the RPA's concerns that maintained that Verizon revise its DND tariff to eliminate completed call charges to a calling party when such party receives only the DND announcement.

On May 31, 2002, Verizon provided the Board with additional documentation explaining the call set up process requiring answer supervision, its association with the provision of DND and the billing process for incoming calls.

On or about January 17, 2003, the Board Staff, the RPA and Verizon met to discuss RPA's concerns. On February 26, 2003, Verizon provided additional data showing that the potential impact on ratepayers is minimal, and that only 25 out of one million calls may not be able to leave a message. In a letter to the Board, dated April 28, 2003, the RPA withdrew its objection to the Verizon's DND filing.

Verizon claims the filing will not increase tariff rates for any existing customers. Residential customers will be informed of the approval of this filing by news releases, advertising, updates to the customer guide pages, and by Petitioner's negotiating personnel. As a result of this filing, Petitioner anticipates a first year revenue of approximately \$757,000. The proposed rate for this service reflects market prices, which are above resource levels as determined by a cost study.

Petitioner also indicates that DND has received approval in the following Verizon jurisdictions: Maryland, Virginia, Delaware, Pennsylvania, Wisconsin and Washington D.C., and also notes customer interest in the service in New Jersey. It has been providing DND on a special rate authorization until the Board makes a final decision.

DISCUSSION AND FINDINGS

DND can provide telecommunications consumers with privacy and control of their incoming telephone calls. Also, in light of the de minimus number of customers that would not be able to leave a message due to DND, the Board agrees with the RPA that the potential impact of billings for non-completed calls through DND on ratepayers is minimal. Therefore, the Board FINDS that the provision of Do Not Disturb service is in the public interest and in accordance with law. Pursuant to N.J.S.A. 8: 2-21(c), the Board HEREBY APPROVES the petition as filed.

DATED: 10/23/03

BOARD OF PUBLIC UTILITIES
BY:

(signed)
JEANNE M. FOX
PRESIDENT

(signed)
FREDERICK F. BUTLER
COMMISSIONER

(signed)
CAROL J. MURPHY
COMMISSIONER

(signed)
CONNIE O. HUGHES
COMMISSIONER

(signed)
JACK ALTER
COMMISSIONER

ATTEST:

(signed)
KRISTI IZZO
SECRETARY